

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4298

BY DELEGATES BUTLER, HOUSEHOLDER, HIGGINBOTHAM,

ELDRIDGE, MCGEEHAN, MARCUM, BLAIR, ESPINOSA,

FOSTER, A. EVANS AND R. ROMINE

[Introduced January 25, 2018; Referred
to the Committee on Education then the Judiciary.]

1 A BILL to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as
2 amended, to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-
3 2A-4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code
4 by adding thereto a new section, designated §18B-4-5b, all relating to denying institutions
5 of higher education the authority to restrict or regulate the carrying of a concealed deadly
6 weapon by a person who holds a current license to carry a concealed deadly weapon;
7 providing exceptions as to when regulation may occur; and designating these
8 amendments as “The Campus Self Defense Act”.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GOVERNANCE.

§18B-1-3. Transfer of powers, duties, property, obligations, etc.

1 (a) All powers, duties, and authorities transferred to the Board of Regents pursuant to
2 former provisions of §18-1-1 *et seq.* of this code and transferred to the Board of Trustees and
3 Board of Directors which were created as the governing boards pursuant to the former provisions
4 of this chapter and all powers, duties, and authorities of the Board of Trustees and Board of
5 Directors, to the extent they are in effect on June 17, 2000, are hereby transferred to the Interim
6 Governing Board created in article one-c of this chapter and shall be exercised and performed by
7 the Interim Governing Board until July 1, 2001, as such powers, duties, and authorities may apply
8 to the institutions under its jurisdiction.

9 (b) Title to all property previously transferred to or vested in the Board of Trustees and the
10 Board of Directors and property vested in either of the boards separately, formerly existing under
11 the provisions of this chapter, are hereby transferred to the Interim Governing Board created in
12 §18B-1C-1 *et seq.* of this code until July 1, 2001. Property transferred to or vested in the Board
13 of Trustees and Board of Directors shall include:

14 (1) All property vested in the Board of Governors of West Virginia University and
15 transferred to and vested in the West Virginia Board of Regents;

16 (2) All property acquired in the name of the state Board of Control or the West Virginia
17 Board of Education and used by or for the state colleges and universities and transferred to and
18 vested in the West Virginia Board of Regents;

19 (3) All property acquired in the name of the state Commission on Higher Education and
20 transferred to and vested in the West Virginia Board of Regents; and

21 (4) All property acquired in the name of the Board of Regents and transferred to and vested
22 in the respective Board of Trustees and Board of Directors.

23 (c) Each valid agreement and obligation previously transferred to or vested in the Board
24 of Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby
25 transferred to the Interim Governing Board until July 1, 2001, as those agreements and obligations
26 may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred
27 to the Board of Trustees and Board of Directors shall include:

28 (1) Each valid agreement and obligation of the Board of Governors of West Virginia
29 University transferred to and deemed the agreement and obligation of the West Virginia Board of
30 Regents;

31 (2) Each valid agreement and obligation of the State Board of Education with respect to
32 the state colleges and universities transferred to and deemed the agreement and obligation of the
33 West Virginia Board of Regents;

34 (3) Each valid agreement and obligation of the state Commission on Higher Education
35 transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;
36 and

37 (4) Each valid agreement and obligation of the Board of Regents transferred to and
38 deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

39 (d) All orders, resolutions, and rules adopted or promulgated by the respective Board of
40 Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby
41 transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and shall

42 be ~~deemed~~ considered the orders, resolutions, and rules of the Interim Governing Board until
43 rescinded, revised, altered, or amended by the commission or the governing boards in the manner
44 and to the extent authorized and permitted by law. ~~Such~~ The orders, resolutions, and rules shall
45 include:

46 (1) Those adopted or promulgated by the Board of Governors of West Virginia University
47 and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered, or
48 amended by the Board of Regents in the manner and to the extent authorized and permitted by
49 law;

50 (2) Those respecting state colleges and universities adopted or promulgated by the West
51 Virginia Board of Education and in effect immediately prior to July 1, 1969, unless and until
52 rescinded, revised, altered, or amended by the Board of Regents in the manner and to the extent
53 authorized and permitted by law;

54 (3) Those adopted or promulgated by the state Commission on Higher Education and in
55 effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered, or amended
56 by the Board of Regents in the manner and to the extent authorized and permitted by law; and

57 (4) Those adopted or promulgated by the Board of Regents prior to July 1, 1989, unless
58 and until rescinded, revised, altered, or amended by the respective Board of Trustees or Board
59 of Directors in the manner and to the extent authorized and permitted by law.

60 (e) Title to all real property transferred to or vested in the Interim Governing Board
61 pursuant to this section of the code is hereby transferred to the commission effective July 1, 2001.
62 The Board of Governors for each institution may request that the commission transfer title to the
63 Board of Governors of any real property specifically identifiable with that institution or the
64 commission may initiate the transfer. Any such request must be made within two years of the
65 effective date of this section and be accompanied by an adequate legal description of the property.
66 In the case of real property that is specifically identifiable with Marshall University or West Virginia
67 University, the commission shall transfer title to all real property, except real property that is used

68 jointly by institutions or for statewide programs under the jurisdiction of the commission or the
69 council, to the Board of Governors of Marshall University or West Virginia University, as
70 appropriate, upon receipt of a request from the appropriate governing board accompanied by an
71 adequate legal description of the property.

72 The title to any real property that is jointly utilized by institutions or for statewide programs
73 under the jurisdiction of the commission or the council shall be retained by the commission.

74 (f) Ownership of or title to any other property, materials, equipment, or supplies obtained
75 or purchased by the Interim Governing Board or the previous governing boards on behalf of an
76 institution is hereby transferred to the Board of Governors of that institution effective July 1, 2001.

77 (g) Each valid agreement and obligation previously transferred or vested in the Interim
78 Governing Board and which was undertaken or agreed to on behalf of an institution or institutions
79 is hereby transferred to the Board of Governors of the institution or institutions for whose benefit
80 the agreement was entered into or the obligation undertaken effective July 1, 2001.

81 (1) The obligations contained in revenue bonds issued by the previous governing boards
82 under the provisions of §18B-10-8 and §18-12B-1 *et seq.* of this code are hereby transferred to
83 the commission and each institution shall transfer to the commission those funds the commission
84 determines are necessary to pay that institution's share of bonded indebtedness.

85 (2) The obligations contained in revenue bonds issued on behalf of a state institution of
86 higher education pursuant to any other section of this code is hereby transferred to the Board of
87 Governors of the institution on whose behalf the bonds were issued.

88 (h) All orders, resolutions, policies and rules:

89 (1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or
90 Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to
91 the commission effective July 1, 2001, and continue in effect until rescinded, revised, altered,
92 amended or transferred to the governing boards by the commission as provided in this section
93 and in §18B-1-6 of this code.

94 (2) Adopted or promulgated by the commission relating solely to community and technical
95 colleges or community and technical college education, or rules which the council finds necessary
96 for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be
97 adopted by the Council and continue in effect until rescinded, revised, altered, amended, or
98 transferred to the governing boards under the jurisdiction of the Council pursuant to §18B-1-6 of
99 this code. Nothing in this section requires the initial rules of the commission that are adopted by
100 the Council to be promulgated again under the procedure set forth in §29A-3A-1 *et seq.* of this
101 code unless ~~such~~ the rules are rescinded, revised, altered, or amended.

102 (3) Adopted or promulgated by the commission relating to multiple types of public
103 institutions of higher education or community and technical college education as well as
104 baccalaureate and post-baccalaureate education are transferred to the Council in part as follows:

105 (A) That portion of the rule relating solely to community and technical colleges or
106 community and technical college education is transferred to the council and continues in effect
107 until rescinded, revised, altered, amended, or transferred to the governing boards by the council
108 as provided in this section and in §18B-1-6 of this code;

109 (B) That portion of the rule relating to institutions or education other than community and
110 technical colleges is retained by the commission and continues in effect until rescinded, revised,
111 altered, amended, or transferred to the governing boards by the commission as provided in this
112 section and in §18B-1-6 of this code.

113 (i) The commission may, in its sole discretion, transfer any rule, other than a legislative
114 rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may
115 rescind, revise, alter, or amend any rule so transferred pursuant to rules adopted by the
116 commission pursuant to section six of this article.

117 The council may, in its sole discretion, transfer any rule, other than a legislative rule, to
118 the jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind,
119 revise, alter, or amend any rule so transferred pursuant to rules adopted by the council pursuant

120 to §18B-1-6 of this code.

121 (j) As to any title, agreement, obligation, order, resolution, rule, or any other matter about
122 which there is some uncertainty, misunderstanding, or question, the matter shall be summarized
123 in writing and sent to the commission which shall make a determination regarding such matter
124 within 30 days of receipt thereof.

125 (k) Rules or provisions of law which refer to other provisions of law which were repealed,
126 rendered inoperative, or superseded by the provisions of this section shall remain in full force and
127 effect to such extent as may still be applicable to higher education and may be so interpreted.
128 Such references include, but are not limited to, references to sections and prior enactments of
129 article twenty-six, chapter eighteen of this code and code provisions relating to retirement, health
130 insurance, grievance procedures, purchasing, student loans and savings plans. Any
131 determination which needs to be made regarding applicability of any provision of law shall first be
132 made by the commission.

133 (l) Nothing in this section provides the authority to restrict or regulate the carrying of a
134 concealed deadly weapon by a person who holds a current license to carry a concealed deadly
135 weapon except as expressly authorized in §18B-4-5b(b) of this code.

§18B-1-6. Rulemaking.

1 (a) The commission ~~is hereby empowered to~~ may promulgate, adopt, amend, or repeal
2 rules, in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This
3 grant of rule-making authority does not limit, overrule, restrict, supplant or supersede the rule-
4 making authority provided to the exempted schools.

5 (b) The council ~~is hereby empowered to~~ may promulgate, adopt, amend, or repeal rules
6 in accordance with §29A-3A-1 *et seq.* of this code, subject to §18B-1-3 of this code. This grant of
7 rule-making power extends only to those areas over which the council has been granted specific
8 authority and jurisdiction by law.

9 (c) As it relates to the authority granted to governing boards of state institutions of higher

10 education to promulgate, adopt, amend, or repeal any rule under this code:

11 (1) "Rule" means any regulation, guideline, directive, standard, statement of policy, or
12 interpretation of general application which has institution-wide effect or which affects the rights,
13 privileges, or interests of employees, students, or citizens. Any regulation, guideline, directive,
14 standard, statement of policy, or interpretation of general application that meets this definition is
15 a rule for the purposes of this section.

16 (2) Regulations, guidelines, or policies established for individual units, divisions,
17 departments, or schools of the institution, which deal solely with the internal management or
18 responsibilities of a single unit, division, department or school or with academic curricular policies
19 that do not constitute a mission change for the institution, are excluded from this subsection,
20 except for the requirements relating to posting.

21 (3) The commission shall promulgate a rule to guide the development of rules made by
22 the governing boards, including a process for comment by the commission as appropriate, except
23 the exempted schools, who shall each promulgate their own such rules. The council shall
24 promulgate a rule to guide the development and approval of rules made by the governing boards.
25 The commission and council shall provide technical assistance in rulemaking as requested. The
26 rules promulgated by the exempted schools, the commission and council shall include, but are
27 not limited to, the following provisions which shall be included in the rule on rules adopted by each
28 governing board of a state institution of higher education:

29 (A) A procedure to ensure that public notice is given and that the right of interested parties
30 to have a fair and adequate opportunity to respond is protected, including providing for a thirty-
31 day public comment period prior to final adoption of a rule;

32 (B) Designation of a single location where all proposed and approved rules, guidelines
33 and other policy statements are posted and can be accessed by the public;

34 (C) A procedure to maximize Internet access to all proposed and approved rules,
35 guidelines and other policy statements to the extent technically and financially feasible; and

36 (D) Except for the exempted schools, a procedure for the governing board to follow in
37 submitting its rules for review and comment by the commission and approval by the council, as
38 appropriate:

39 (i) The governing boards shall submit rules for review and comment to the commission.

40 (ii) The commission shall return to the governing board its comments and suggestions
41 within 15 business days of receiving the rule.

42 (iii) If a governing board receives comments or suggestions on a rule from the commission,
43 it shall record these as part of the minute record. The rule is not effective and may not be
44 implemented until the governing board holds a meeting and places on the meeting agenda the
45 comments it has received from the commission.

46 (d) Nothing in this section requires that any rule reclassified or transferred by the
47 commission or the council under this section be promulgated again under the procedures set out
48 in §29A-3A-1 *et seq.* of this code unless the rule is amended or modified.

49 (e) The commission and council each shall file with the Legislative Oversight Commission
50 on Education Accountability any rule it proposes to promulgate, adopt, amend, or repeal under
51 the authority of this article.

52 (f) The governing boards shall promulgate and adopt any rule which they are required to
53 adopt by this chapter or §18C-1-1 *et seq.* of this code no later than July 1, 2011 unless a later
54 date is specified. On and after this date:

55 (1) Any rule of a governing board which meets the definition set out in subsection (c) of
56 this section and which has not been promulgated and adopted by formal vote of the appropriate
57 governing board is void and may not be enforced;

58 (2) Any authority granted by this code which inherently requires the governing board to
59 promulgate and adopt a rule is void until the governing board complies with this section.

60 (g) Within 15 business days of the adoption of a rule, including repeal or amendment of
61 an existing rule, and before the change is implemented, a governing board shall furnish a copy of

62 each rule which it has adopted to the commission or the council, respectively, for review.

63 (h) Annually, by October 1, each governing board shall file with the commission or the
64 council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that
65 year, including the most recent date on which each rule was considered and adopted, amended,
66 or repealed by the governing board. For all rules adopted, amended, or repealed after the effective
67 date of this section, the list shall include a statement by the chair of the governing board certifying
68 that the governing board has complied with this section when each listed rule was promulgated
69 and adopted.

70 (i) Any rule of the commission or council in effect at the time of the reenactment of this
71 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and
72 applicable to an institution of higher education under the jurisdiction of the commission or council
73 until such time as an institution exercises its authority to adopt a rule pursuant to this chapter.

74 (j) No rule adopted under this section may restrict or regulate the carrying of a concealed
75 deadly weapon by a person who holds a current license to carry a concealed deadly weapon
76 except as expressly authorized in §18B-4-5b(b) of this code.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

1 (a) The primary responsibility of the commission is to provide shared services in a cost-
2 effective manner upon request to the state colleges and universities, the council, and the
3 community and technical colleges; undertake certain statewide and regional initiatives as
4 specifically designated in this chapter, including those related to the administration of grants and
5 scholarships and including those in conjunction with the council; to review, confirm, or approve
6 certain actions undertaken by governing boards, as delineated in this chapter; and assist in the
7 development of policy that will achieve the goals, objectives, and priorities found in §18B-1D-1a
8 of this code. The commission shall exercise its authority and carry out its responsibilities in a
9 manner that is consistent and not in conflict with the powers and duties assigned by law to the

10 West Virginia Council for Community and Technical College Education and the powers and duties
11 assigned to the governing boards. To that end, the commission has the following powers and
12 duties relating to the governing boards under its jurisdiction:

13 (1) Develop and advance the public policy agenda pursuant to article one-d of this chapter
14 to address major challenges facing the state, including, but not limited to, the following:

15 (A) The goals, objectives, and priorities established in this chapter including specifically
16 those goals, objectives, and priorities pertaining to the compacts created pursuant to §18B-1D-7
17 of this code; and

18 (B) Development of the master plan described in §18B-1D-5 of this code for the purpose
19 of accomplishing the mandates of this section;

20 (2) Develop, oversee, and advance the promulgation and implementation of a financing
21 rule for state institutions of higher education under its jurisdiction except the exempted schools.
22 The rule shall meet the following criteria:

23 (A) Provide for an adequate level of educational and general funding for institutions
24 pursuant to §18B-1A-5 of this code;

25 (B) Serve to maintain institutional assets, including, but not limited to, human and physical
26 resources and eliminating deferred maintenance; and

27 (C) Invest and provide incentives for achieving the priority goals in the public policy
28 agenda, including, but not limited to, those found in §18B-1D-1a and §18B-1D-1 *et seq.* of this
29 code;

30 (3) In collaboration with the council and the governing boards:

31 (A) Building public consensus around and sustaining attention to a long-range public policy
32 agenda. In developing the agenda, the commission and council shall seek input from the
33 Legislature, the Governor, the governing boards, and specifically from the State Board of
34 Education and local school districts in order to create the necessary linkages to assure smooth,
35 effective and seamless movement of students through the public education and post-secondary

36 education systems and to ensure that the needs of public school courses and programs can be
37 fulfilled by the graduates produced and the programs offered;

38 (B) Assisting governing boards to carry out their duty effectively to govern the individual
39 institutions of higher education;

40 (4) Except the exempted schools, review and comment on each compact for the governing
41 boards under its jurisdiction, and final confirmation of each compact;

42 (5) Review and confirm the bi-annual updates of the institutional compacts, except the
43 exempted schools;

44 (6) Serve as a point of contact to state policymakers:

45 (A) The Governor for the public policy agenda; and

46 (B) The Legislature by maintaining a close working relationship with the legislative
47 leadership and the Legislative Oversight Commission on Education Accountability.

48 (7) Upon request, provide shared services to a state institution of higher education;

49 (8) Administer scholarship and grant programs as provided for in this code;

50 (9) Establish and implement the benchmarks and performance indicators for state colleges
51 and universities necessary to measure institutional progress in achieving state policy priorities
52 and institutional missions pursuant to §18B-1D-7 of this code;

53 (10) Establish a formal process for recommending capital investment needs and for
54 determining priorities for state colleges and universities for these investments for consideration
55 by the Governor and the Legislature as part of the appropriation request process pursuant to
56 §18B-19-1 *et seq.* of this code;

57 (11) Except the exempted schools, develop standards and evaluate governing board
58 requests for capital project financing in accordance with §18B-19-1 *et seq.* of this code;

59 (12) Except the exempted schools, ensure that governing boards manage capital projects
60 and facilities needs effectively, including review and approval of capital projects, in accordance
61 with §18B-19-1 *et seq.* of this code;

62 (13) Acquire legal services as considered necessary, including representation of the
63 commission, the governing boards, employees, and officers before any court or administrative
64 body, notwithstanding any other provision of this code to the contrary. The counsel may be
65 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission
66 may, but is not required to, call upon the Attorney General for legal assistance and representation
67 as provided by law;

68 (14) Employ a Chancellor for Higher Education pursuant to §18B-1B-5 of this code;

69 (15) Employ other staff as necessary and appropriate to carry out the duties and
70 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this
71 code;

72 (16) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and
73 other staff;

74 (17) Advise and confirm in the appointment of the presidents of the institutions of higher
75 education under its jurisdiction pursuant to §18B-1B-6 of this code, except the exempted schools.
76 The role of the commission in confirming an institutional president is to assure through personal
77 interview that the person selected understands and is committed to achieving the goals,
78 objectives, and priorities set forth in the compact, in §18B-1-1a and §18B-1D-1 *et seq.* of this
79 code;

80 (18) Approve the total compensation package from all sources for presidents of institutions
81 under its jurisdiction, except the exempted schools, as proposed by the governing boards. The
82 governing boards, except the exempted schools, must obtain approval from the commission of
83 the total compensation package both when institutional presidents are employed initially and
84 afterward when any change is made in the amount of the total compensation package: *Provided,*
85 That the Commission will receive notice, but need not approve or confirm, an increase in the
86 compensation of an institutional president that is exactly in the ratio of compensation increases
87 allocated to all institutional employees and approved by the governing board to expressly include

88 the president;

89 (19) Assist and facilitate the work of the institutions to implement the policy of the state to
90 assure that parents and students have sufficient information at the earliest possible age on which
91 to base academic decisions about what is required for students to be successful in college, other
92 post-secondary education and careers related, as far as possible, to results from current
93 assessment tools in use in West Virginia;

94 (20) Approve and implement a uniform standard jointly with the council to determine which
95 students shall be placed in remedial or developmental courses. The standard shall be aligned
96 with college admission tests and assessment tools used in West Virginia and shall be applied
97 uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of
98 the standard which they shall communicate to the State Board of Education and the State
99 Superintendent of Schools;

100 (21) Jointly with the council, develop and implement an oversight plan to manage
101 systemwide technology except the exempted schools, including, but not limited to, the following:

102 (A) Expanding distance learning and technology networks to enhance teaching and
103 learning, promote access to quality educational offerings with minimum duplication of effort; and

104 (B) Increasing the delivery of instruction to nontraditional students, to provide services to
105 business and industry and increase the management capabilities of the higher education system.

106 (C) Notwithstanding any other provision of law or this code to the contrary, the council,
107 commission, and governing boards are not subject to the jurisdiction of the Chief Technology
108 Officer for any purpose;

109 (22) Establish and implement policies and procedures to ensure that a student may
110 transfer and apply toward the requirements for a bachelor's degree the maximum number of
111 credits earned at any regionally accredited in-state or out-of-state community and technical
112 college with as few requirements to repeat courses or to incur additional costs as are consistent
113 with sound academic policy;

114 (23) Establish and implement policies and procedures to ensure that a student may
115 transfer and apply toward the requirements for any degree the maximum number of credits earned
116 at any regionally accredited in-state or out-of-state higher education institution with as few
117 requirements to repeat courses or to incur additional costs as are consistent with sound academic
118 policy;

119 (24) Establish and implement policies and procedures to ensure that a student may
120 transfer and apply toward the requirements for a master's degree the maximum number of credits
121 earned at any regionally accredited in-state or out-of-state higher education institution with as few
122 requirements to repeat courses or to incur additional costs as are consistent with sound academic
123 policy;

124 (25) Establish and implement policies and programs, in cooperation with the council and
125 the governing boards, through which a student who has gained knowledge and skills through
126 employment, participation in education and training at vocational schools or other education
127 institutions, or Internet-based education programs, may demonstrate by competency-based
128 assessment that he or she has the necessary knowledge and skills to be granted academic credit
129 or advanced placement standing toward the requirements of an associate's degree or a
130 bachelor's degree at a state institution of higher education;

131 (26) Seek out and attend regional, national and international meetings and forums on
132 education and workforce development-related topics as, in the commission's discretion, are
133 critical for the performance of their duties as members, for the purpose of keeping abreast of
134 education trends and policies to aid it in developing the policies for this state to meet the
135 established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et*
136 *seq.* of this code;

137 (27) Promulgate and implement a rule for higher education governing boards and
138 institutions, except the exempted schools, to follow when considering capital projects pursuant to
139 §18B-19-1 *et seq.* of this code, which rule shall provide for appropriate deference to the value

140 judgments of governing boards under the jurisdiction of the commission;

141 (28) Submit to the appropriate agencies of the executive and legislative branches of state
142 government an appropriation request that reflects recommended appropriations for the
143 commission and the governing boards under its jurisdiction. The commission shall submit as part
144 of its appropriation request the separate recommended appropriation request it received from the
145 council, both for the council and for the governing boards under the council's jurisdiction, including
146 the exempted schools. The commission annually shall submit the proposed allocations based on
147 each institution's progress toward meeting the goals of its compact;

148 (29) The commission may assess institutions under its jurisdiction, including the exempted
149 schools, for the payment of expenses of the commission or for the funding of statewide higher
150 education services, obligations, or initiatives related to the goals set forth for the provision of public
151 higher education in the state: *Provided*, That the commission may not assess institutions pursuant
152 to this subdivision on or after July 1, 2018;

153 (30) Promulgate rules allocating reimbursement of appropriations, if made available by the
154 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing
155 services to students with physical, learning, or severe sensory disabilities;

156 (31) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary
157 or expedient to fulfill the purposes of this chapter;

158 (32) Determine when a joint rule among the governing boards under its jurisdiction is
159 necessary or required by law and, in those instances, in consultation with the governing boards
160 under its jurisdiction, promulgate the joint rule;

161 (33) Promulgate and implement a rule jointly with the council whereby course credit
162 earned at a community and technical college transfers for program credit at any other state
163 institution of higher education and is not limited to fulfilling a general education requirement;

164 (34) By October 1, 2011, promulgate a rule pursuant to section one, article ten of this
165 chapter, establishing tuition and fee policy for all governing boards under the jurisdiction of the

166 commission, except the exempted schools. The rule shall include, but is not limited to, the
167 following:

168 (A) Differences among institutional missions;

169 (B) Strategies for promoting student access;

170 (C) Consideration of charges to out-of-state students; and

171 (D) Such other policies as the commission and council consider appropriate;

172 (35) Assist governing boards in actions to implement general disease awareness
173 initiatives to educate parents and students, particularly dormitory residents, about meningococcal
174 meningitis; the potentially life-threatening dangers of contracting the infection; behaviors and
175 activities that can increase risks; measures that can be taken to prevent contact or infection; and
176 potential benefits of vaccination. The commission shall encourage governing boards that provide
177 medical care to students to provide access to the vaccine for those who wish to receive it; and

178 (36) Notwithstanding any other provision of this code to the contrary sell, lease, convey,
179 or otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-
180 1 *et seq.* of this code.

181 (37) Policy analysis and research focused on issues affecting institutions of higher
182 education generally or a geographical region thereof;

183 (38) Development and approval of institutional mission definitions except the exempted
184 schools, including use of incentive funds to influence institutional behavior in ways that are
185 consistent with public priorities;

186 (39) Academic program review and approval for governing boards under its jurisdiction.
187 The review and approval includes use of institutional missions as a template to judge the
188 appropriateness of both new and existing programs and the authority to implement needed
189 changes.

190 (A) The commission's authority to review and approve academic programs for the
191 exempted schools is limited to programs that are proposed to be offered at a new location not

192 presently served by that institution: *Provided*, That West Virginia University and the West Virginia
193 University Institute of Technology are subject to the commission's authority as provided in §18B-
194 1C-2 of this code;

195 (B) In reviewing and approving academic programs, the commission shall focus on the
196 following policy concerns:

197 (1) New programs should not be implemented which change the institutional mission,
198 unless the institution also receives approval for expanding the institutional mission;

199 (2) New programs which will require significant additional expense investments for
200 implementation should not be implemented unless the institution demonstrates that:

201 (i) The expenses will be addressed by effective reallocations of existing institutional
202 resources; or

203 (ii) The expenses can be legitimately spread out over future years and will be covered by
204 reasonably anticipated additional net revenues from new enrollments;

205 (3) A new undergraduate program which is significantly similar to an existing program
206 already in the geographic service area should not be implemented unless the institution
207 requesting the new program demonstrates a compelling need in the service area that is not being
208 met by the existing program: *Provided*, That the academic programs of the exempted schools are
209 not to be taken into consideration except as it relates to academic programs offered at West
210 Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

211 (C) The commission shall approve or disapprove proposed academic degree programs in
212 those instances where approval is required as soon as practicable. The commission shall
213 maintain by rule a format model by which a new program approval shall be requested by an
214 institution. When a request for approval of a new program is submitted to the commission, the
215 chancellor shall provide notice within two weeks as to whether the submission meets the required
216 format, and if it does not the chancellor shall identify each specific deficiency and return the
217 request to the institution. The institution may refile the request for approval with the commission

218 to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the
219 request meets the required format, the commission shall either approve or disapprove the request
220 for the new program. The commission may not withhold approval unreasonably.

221 (40) Distribution of funds appropriated to the commission, including incentive and
222 performance-based funds;

223 (41) Administration of state and federal student aid programs under the supervision of the
224 vice chancellor for administration, including promulgation of rules necessary to administer those
225 programs;

226 (42) Serving as the agent to receive and disburse public funds when a governmental entity
227 requires designation of a statewide higher education agency for this purpose;

228 (43) Developing and distributing information, assessment, accountability and personnel
229 systems for state colleges and universities, including maintaining statewide data systems that
230 facilitate long-term planning and accurate measurement of strategic outcomes and performance
231 indicators;

232 (44) Jointly with the council, promulgating and implementing rules for licensing and
233 oversight for both public and private degree-granting and nondegree-granting institutions that
234 provide post-secondary education courses or programs in the state. The council has authority
235 and responsibility for approval of all post-secondary courses or programs providing community
236 and technical college education as defined in §18B-1-2 of this code;

237 (45) Developing, facilitating, and overseeing statewide and regional projects and initiatives
238 related to providing post-secondary education at the baccalaureate level and above such as those
239 using funds from federal categorical programs or those using incentive and performance-based
240 funds from any source;

241 (46) (A) For all governing boards under its jurisdiction, except for the exempted schools,
242 the commission shall review institutional operating budgets, review and approve capital budgets,
243 and distribute incentive and performance-based funds;

244 (B) For the governing boards of, the exempted schools, the commission shall distribute
245 incentive and performance-based funds and may review and comment upon the institutional
246 operating budgets and capital budgets. The commission's comments, if any, shall be made part
247 of the governing board's minute record and shall be filed with the Legislative Oversight
248 Commission on Education Accountability;

249 (47) May provide information, research, and recommendations to state colleges and
250 universities relating to programs and vocations with employment rates greater than ninety percent
251 within six months post-graduation; and

252 (48) May provide information, research, and recommendations to state colleges and
253 universities on coordinating with the West Virginia State Board of Education about complimentary
254 programs.

255 (b) In addition to the powers and duties provided in subsections (a) and (b) of this section
256 and any other powers and duties assigned to it by law, the commission has other powers and
257 duties necessary or expedient to accomplish the purposes of this article: *Provided*, That the
258 provisions of this subsection ~~shall~~ may not be construed to shift management authority from the
259 governing boards to the commission.

260 (c) The commission may withdraw specific powers of a governing board under its
261 jurisdiction for a period not to exceed two years, if the commission determines that any of the
262 following conditions exist:

263 (1) The commission has received information, substantiated by independent audit, of
264 significant mismanagement or failure to carry out the powers and duties of the governing board
265 according to state law; or

266 (2) Other circumstances which, in the view of the commission, severely limit the capacity
267 of the governing board to exercise its powers or carry out its duties and responsibilities.

268 The commission may not withdraw specific powers for a period exceeding two years.
269 During the withdrawal period, the commission shall take all steps necessary to reestablish sound,

270 stable, and responsible institutional governance.

271 (d) The Higher Education Policy Commission shall examine the question of general
272 revenue appropriations to individual higher education institutions per student, and per credit hour,
273 and by other relevant measures at all higher education institutions, including four-year
274 baccalaureate institutions and the community and technical colleges, and on or before January
275 1, 2018, the commission shall deliver its report to the Joint Committee on Government and
276 Finance and the Legislative Oversight Commission on Education Accountability. This report shall
277 include a recommendation to the Legislature on a formula for the allocation of general revenue to
278 be appropriated to such institutions that provides for ratable funding across all four-year
279 institutions and community and technical colleges on a ratable basis, by enrolled student, by credit
280 hour, or by other relevant measures. On such basis, the commission shall make a
281 recommendation to the Legislature as to the amounts that each such institution should have
282 appropriated to it in the general revenue budget for fiscal year 2019, based upon the total general
283 revenue appropriations that such institutions receive in aggregate in the enacted budget for fiscal
284 year 2018.

285 (e) Nothing in this section authorizes the commission to restrict or regulate the carrying of
286 a concealed deadly weapon by a person who holds a current license to carry a concealed deadly
287 weapon except as expressly authorized in §18B-4-5b(b) of this code.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-4. Powers and duties of governing boards generally.

1 Each governing board separately has the following powers and duties:

2 (a) Determine, control, supervise, and manage the financial, business, and education
3 policies and affairs of the state institution of higher education under its jurisdiction;

4 (b) Develop a master plan for the institution under its jurisdiction.

5 (1) The ultimate responsibility for developing and updating each master plan at the
6 institution resides with the governing board, but the ultimate responsibility for approving the final

7 version of each master plan, including periodic updates, resides with the commission or council,
8 as appropriate: *Provided*, That commission approval is not required for master plans of exempted
9 schools.

10 (2) Each master plan shall include, but is not limited to, the following:

11 (A) A detailed demonstration of how the master plan will be used to meet the goals,
12 objectives, and priorities of the compact;

13 (B) A well-developed set of goals, objectives, and priorities outlining missions, degree
14 offerings, resource requirements, physical plant needs, personnel needs, enrollment levels, and
15 other planning determinates and projections necessary in a plan to assure that the needs of the
16 institution's area of responsibility for a quality system of higher education are addressed;

17 (C) Documentation showing how the governing board involved the commission or council,
18 as appropriate, constituency groups, clientele of the institution, and the general public in the
19 development of all segments of the master plan.

20 (3) The plan shall be established for periods of not fewer than three nor more than five
21 years and shall be revised periodically as necessary, including adding or deleting programs. The
22 commission may review and comment upon the master plan of an exempted school. The
23 commission may review, but may not approve or disapprove, additions or deletions of degree
24 programs, except as expressly provided for in §18B-1B-4(a)(39) of this code.

25 (4) For the exempted schools, the master plan shall be updated at least bi-annually and
26 include the steps taken to meet the legislatively established policies contained in §18B-1D-1 *et*
27 *seq.* of this code and reports on each of the data elements identified in §18B-1D-1 *et seq.* of this
28 code, including progress that the exempted schools are making relating to retention and
29 graduation rates for resident students by organization and each college within the organization.
30 The exempted schools shall provide copies of their respective master plan to the Legislative
31 Oversight Commission on Education Accountability and the commission.

32 (c) Develop a 10-year campus development plan in accordance with article nineteen of

33 this chapter;

34 (d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan
35 and compact, specific functions, and responsibilities to achieve the goals, objectives, and
36 priorities established in §18D-1-1-*et seq.* and §18B-1D-1 *et seq.* of this code to meet the higher
37 education needs of its area of responsibility and to avoid unnecessary duplication;

38 (e) Direct the preparation of an appropriation request for the institution under its
39 jurisdiction, which relates directly to missions, goals, and projections found in the master plan and
40 the compact;

41 (f) Consider, revise, and submit for review and approval to the commission or council, as
42 appropriate, an appropriation request on behalf of the institution under its jurisdiction, including
43 the exempted schools;

44 (g) Review, at least every five years, all academic programs offered at the institution under
45 its jurisdiction. The review shall address the viability, adequacy, and necessity of the programs in
46 relation to established state goals, objectives, and priorities, the master plan, the compact, and
47 the education and workforce needs of its responsibility district. As a part of the review, each
48 governing board shall require the institution under its jurisdiction to conduct periodic studies of its
49 graduates and their employers to determine placement patterns and the effectiveness of the
50 education experience. Where appropriate, these studies should coincide with the studies required
51 of many academic disciplines by their accrediting bodies;

52 (h) Ensure that the sequence and availability of academic programs and courses offered
53 by the institution under its jurisdiction is such that students have the maximum opportunity to
54 complete programs in the time frame normally associated with program completion. Each
55 governing board is responsible to see that the needs of nontraditional college-age students are
56 appropriately addressed and, to the extent it is possible for the individual governing board to
57 control, to assure core course work completed at the institution is transferable to any other state
58 institution of higher education for credit with the grade earned;

59 (i) Subject to §18B-1B-1 *et seq.* of this code, approve the teacher education programs
60 offered in the institution under its control. In order to permit graduates of teacher education
61 programs to receive a degree from a nationally accredited program and in order to prevent
62 expensive duplication of program accreditation, the commission may select and use one
63 nationally recognized teacher education program accreditation standard as the appropriate
64 standard for program evaluation;

65 (j) Involve faculty, students and classified employees in institution-level planning and
66 decision making when those groups are affected;

67 (k) Subject to federal law and pursuant to §18B-7-1 *et seq.*, articles seven, §18B-8-1 *et*
68 *seq.*, §18B-9-1 *et seq.*, and §18B-9a-1 *et seq.* of this code and to rules adopted by the commission
69 and the council, administer a system for the management of personnel matters, including, but not
70 limited to, discipline for employees at the institution under its jurisdiction: *Provided*, That any rules
71 adopted by the commission and the council do not apply to exempted schools;

72 (l) Administer a system for hearing employee grievances and appeals. Notwithstanding
73 any other provision of this code to the contrary, the procedure established in §6C-2-1 *et seq.* of
74 this code is the exclusive mechanism for hearing prospective employee grievances and appeals;

75 (m) Solicit and use or expend voluntary support, including financial contributions and
76 support services, for the institution under its jurisdiction;

77 (n) Appoint a president for the institution under its jurisdiction, subject to §18B-1B-6 of this
78 code;

79 (o) Conduct written performance evaluations of the president, pursuant to §18B-1B-6 of
80 this code;

81 (p) Employ all faculty and staff at the institution under its jurisdiction. The employees
82 operate under the supervision of the president, but are employees of the governing board;

83 (q) Submit to the commission or council, as appropriate, any data or reports requested by
84 the commission or council within the time frame set by the commission or council;

85 (r) Enter into contracts or consortium agreements with the public schools, private schools,
86 or private industry to provide technical, vocational, college preparatory, remedial, and customized
87 training courses at locations either on campuses of the state institutions of higher education or at
88 off-campus locations in the institution's responsibility district. To accomplish this goal, the boards
89 may share resources among the various groups in the community;

90 (s) Provide and transfer funds and property to certain corporations pursuant to §18B-12-
91 10 of this code;

92 (t) Delegate, with prescribed standards and limitations, the part of its power and control
93 over the business affairs of the institution to the president in any case where it considers the
94 delegation necessary and prudent in order to enable the institution to function in a proper and
95 expeditious manner and to meet the requirements of its master plan and compact. If a governing
96 board elects to delegate any of its power and control under this subsection, it shall enter the
97 delegation in the minutes of the meeting when the decision was made and shall notify the
98 commission or council, as appropriate. Any delegation of power and control may be rescinded by
99 the appropriate governing board, the commission or council, as appropriate, at any time, in whole
100 or in part, except that the commission may not revoke delegations of authority made by the
101 governing board of the exempted schools.

102 (u) Unless changed by the commission or the council, as appropriate, continue to abide
103 by existing rules setting forth standards for accepting advanced placement credit for the institution
104 under its jurisdiction. Individual departments at a state institution of higher education, with
105 approval of the faculty senate, may require higher scores on the advanced placement test than
106 scores designated by the governing board when the credit is to be used toward meeting a
107 requirement of the core curriculum for a major in that department;

108 (v) Consult, cooperate, and coordinate with the State Treasurer and the State Auditor to
109 update as necessary and maintain an efficient and cost-effective system for the financial
110 management and expenditure of appropriated and nonappropriated revenue at the institution

111 under its jurisdiction. The system shall ensure that properly submitted requests for payment are
112 paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's
113 Office;

114 (w) In consultation with the appropriate chancellor and the Secretary of the Department of
115 Administration, develop, update as necessary, and maintain a plan to administer a consistent
116 method of conducting personnel transactions, including, but not limited to, hiring, dismissal,
117 promotions, changes in salary or compensation, and transfers at the institution under its
118 jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized
119 system or forms, as appropriate, which shall be submitted to the respective governing board and
120 the Department of Administration:

121 (1) Not later than July 1, 2012, the Department of Administration shall make available to
122 each governing board the option of using a standardized electronic system for these personnel
123 transactions.

124 (2) The Secretary of the Department of Administration may suspend a governing board's
125 participation in the standardized electronic system if he or she certifies to the Governor that the
126 governing board has failed repeatedly and substantially to comply with the department's policies
127 for administering the electronic system;

128 (x) Notwithstanding any other provision of this code to the contrary, transfer funds from
129 any account specifically appropriated for its use to any corresponding line item in a general
130 revenue account at any agency or institution under its jurisdiction as long as the transferred funds
131 are used for the purposes appropriated;

132 (y) Transfer funds from appropriated special revenue accounts for capital improvements
133 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction
134 as long as the transferred funds are used for the purposes appropriated in accordance with article
135 nineteen of this chapter;

136 (z) Notwithstanding any other provision of this code to the contrary, acquire legal services

137 that are necessary, including representation of the governing board, its institution, employees,
138 and officers before any court or administrative body. The counsel may be employed either on a
139 salaried basis or on a reasonable fee basis. In addition, the governing board may, but is not
140 required to, call upon the Attorney General for legal assistance and representation as provided
141 by law; and

142 (aa) Contract and pay for disability insurance for a class or classes of employees at a state
143 institution of higher education under its jurisdiction.

144 (bb) A governing board under the jurisdiction of the commission may contract and pay for
145 any supplemental employee benefit, at the governing board's discretion: *Provided*, That if such
146 supplemental benefit program incurs institutional expense, then the board may not delegate the
147 approval of such supplemental employee benefit program.

148 (cc) Nothing in this section authorizes a governing board to restrict or regulate the carrying
149 of a concealed deadly weapon by a person who holds a current license to carry a concealed
150 deadly weapon except as expressly authorized in §18B-4-5b(b) of this code.

ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.

§18B-2B-6. Powers and duties of the council.

1 (a) The council is the sole agency responsible for administration of vocational-technical-
2 occupational education and community and technical college education in the state. The council
3 has jurisdiction and authority over the community and technical colleges and the statewide
4 network of independently accredited community and technical colleges as a whole, including
5 community and technical college education programs as defined in section two, article one of this
6 chapter.

7 (b) The council shall propose rules pursuant to §18B-1-6 and §29A-3A-1 *et seq.* of this
8 code to implement the provisions of this section and applicable provisions of §18B-1D-1 *et seq.*

9 of this code:

10 (1) To implement the provisions of §18B-1D-1 *et seq.* of this code relevant to community
11 and technical colleges, the council may propose rules jointly with the commission, or separately,
12 and may choose to address all components of the accountability system in a single rule or may
13 propose additional rules to cover specific components;

14 (2) The rules pertaining to financing policy and benchmarks and indicators required by this
15 section shall be filed with the Legislative Oversight Commission on Education Accountability by
16 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated
17 again under the procedure set forth in §29A-3A-1 *et seq.* of this code unless such rules are
18 rescinded, revised, altered, or amended; and

19 (3) The Legislature finds that an emergency exists and, therefore, the council shall
20 propose an emergency rule or rules to implement the provisions of this section relating to the
21 financing policy and benchmarks and indicators in accordance with §18B-1-6 and §29A-3A-1 *et*
22 *seq.* of this code by October 1, 2008. The emergency rule or rules may not be implemented
23 without prior approval of the Legislative Oversight Commission on Education Accountability.

24 (c) The council has the following powers and duties relating to the authority established in
25 subsection (a) of this section:

26 (1) Develop, oversee, and advance the public policy agenda for community and technical
27 college education for the purpose of accomplishing the mandates of this section, including, but
28 not limited to, the following:

29 (A) Achieving the goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et*
30 *seq.* of this code;

31 (B) Addressing the goals and objectives contained in the institutional compacts created
32 pursuant to §18B-1D-7 of this code; and

33 (C) Developing and implementing the master plan described in §18B-1D-5 of this code;

34 (2) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*

35 *seq.* of this code to develop and implement a financing policy for community and technical college
36 education in West Virginia. The rule shall meet the following criteria:

37 (A) Provide an adequate level of education and general funding for institutions pursuant
38 to §18B-1A-5 of this code;

39 (B) Serve to maintain institutional assets, including, but not limited to, human and physical
40 resources and deferred maintenance;

41 (C) Establish a plan for strategic funding to strengthen capacity for support of community
42 and technical college education; and

43 (D) Establish a plan that measures progress and provides performance-based funding to
44 institutions which make significant progress in the following specific areas:

45 (i) Achieving the objectives and priorities established in §18B-1D-1 *et seq.* of this code;

46 (ii) Serving targeted populations, especially working age adults 25 years of age and over;

47 (iii) Providing access to high-cost, high-demand technical programs in every region of the
48 state;

49 (iv) Increasing the percentage of functionally literate adults in every region of the state;

50 and

51 (v) Providing high-quality community and technical college education services to residents
52 of every region of the state.

53 (3) Creating a policy leadership structure relating to community and technical college
54 education capable of the following actions:

55 (A) Developing, building public consensus around and sustaining attention to a long-range
56 public policy agenda. In developing the agenda, the council shall seek input from the Legislature
57 and the Governor and specifically from the State Board of Education and local school districts in
58 order to create the necessary linkages to assure smooth, effective, and seamless movement of
59 students through the public education and post-secondary education systems and to ensure that
60 the needs of public school courses and programs can be fulfilled by the graduates produced and

61 the programs offered;

62 (B) Ensuring that the governing boards of the institutions under the council's jurisdiction
63 carry out their duty effectively to govern the individual institutions of higher education; and

64 (C) Holding each community and technical college and the statewide network of
65 independently accredited community and technical colleges as a whole accountable for
66 accomplishing their missions and achieving the goals and objectives established in §18B-1-1 *et*
67 *seq.*, §18B-1D-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

68 (4) Develop for inclusion in the statewide public agenda, a plan for raising education
69 attainment, increasing adult literacy, promoting workforce and economic development, and
70 ensuring access to advanced education for the citizens of West Virginia;

71 (5) Provide statewide leadership, coordination, support, and technical assistance to the
72 community and technical colleges and to provide a focal point for visible and effective advocacy
73 for their work and for the public policy agendas approved by the commission and council;

74 (6) Review and adopt annually all institutional compacts for the community and technical
75 colleges pursuant to the provisions of §18B-1D-7 of this code;

76 (7) Fulfill the mandates of the accountability system established in §18B-1D-1 *et seq.* of
77 this chapter and report on progress in meeting established goals, objectives, and priorities to the
78 elected leadership of the state;

79 (8) Propose a legislative rule pursuant to subsection (b) of this section and §29A-3A-1 *et*
80 *seq.* of this code to establish benchmarks and indicators in accordance with the provisions of this
81 subsection;

82 (9) Establish and implement the benchmarks and performance indicators necessary to
83 measure institutional progress:

84 (A) In meeting state goals, objectives, and priorities established in articles one and one-d
85 of this chapter;

86 (B) In carrying out institutional missions; and

87 (C) In meeting the essential conditions established in §18B-3C-1 *et seq.* of this code;

88 (10) Establish a formal process for identifying needs for capital investments and for
89 determining priorities for these investments for consideration by the Governor and the Legislature
90 as part of the appropriation request process. Notwithstanding the language in §18B-1B-4(a)(11)
91 of this code, the commission is not a part of the process for identifying needs for capital
92 investments for the statewide network of independently accredited community and technical
93 colleges;

94 (11) Draw upon the expertise available within the Governor's Workforce Investment Office
95 and the West Virginia Development Office as a resource in the area of workforce development
96 and training;

97 (12) Acquire legal services that are considered necessary, including representation of the
98 council, its institutions, employees, and officers before any court or administrative body,
99 notwithstanding any other provision of this code to the contrary. The counsel may be employed
100 either on a salaried basis or on a reasonable fee basis. In addition, the council may, but is not
101 required to, call upon the Attorney General for legal assistance and representation as provided
102 by law;

103 (13) Employ a chancellor for community and technical college education pursuant to
104 section three of this article;

105 (14) Employ other staff as necessary and appropriate to carry out the duties and
106 responsibilities of the council consistent with the provisions of §18B-4-2 of this code;

107 (15) Employ other staff as necessary and appropriate to carry out the duties and
108 responsibilities of the council who are employed solely by the council;

109 (16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided,*
110 That the offices may be located outside of Charleston at a technology and research center:
111 *Provided, however,* That the current employees of WVNET shall not be moved from Monongalia
112 County without legislative approval;

113 (17) Approve the total compensation package from all sources for presidents of community
114 and technical colleges, as proposed by the governing boards. The governing boards must obtain
115 approval from the council of the total compensation package both when presidents are employed
116 initially and subsequently when any change is made in the amount of the total compensation
117 package;

118 (18) Establish and implement policies and procedures to ensure that students may transfer
119 and apply toward the requirements for a degree the maximum number of credits earned at any
120 regionally accredited in-state or out-of-state higher education institution with as few requirements
121 to repeat courses or to incur additional costs as is consistent with sound academic policy;

122 (19) Establish and implement policies and programs, jointly with the community and
123 technical colleges, through which students who have gained knowledge and skills through
124 employment, participation in education and training at vocational schools or other education
125 institutions, or Internet-based education programs, may demonstrate by competency-based
126 assessment that they have the necessary knowledge and skills to be granted academic credit or
127 advanced placement standing toward the requirements of an associate degree or a bachelor's
128 degree at a state institution of higher education;

129 (20) Seek out and attend regional and national meetings and forums on education and
130 workforce development-related topics, as council members consider critical for the performance
131 of their duties. The council shall keep abreast of national and regional community and technical
132 college education trends and policies to aid members in developing the policies for this state that
133 meet the education goals and objectives established in §18B-1-1 *et seq.* and §18B-1D-1 *et seq.*
134 of this code;

135 (21) Assess community and technical colleges for the payment of expenses of the council
136 or for the funding of statewide services, obligations, or initiatives related specifically to the
137 provision of community and technical college education;

138 (22) Promulgate rules allocating reimbursement of appropriations, if made available by the

139 Legislature, to community and technical colleges for qualifying noncapital expenditures incurred
140 in the provision of services to students with physical, learning, or severe sensory disabilities;

141 (23) Assume the prior authority of the commission in examining and approving tuition and
142 fee increase proposals submitted by community and technical college governing boards as
143 provided in §18B-10-1 of this code;

144 (24) Develop and submit to the commission, a single budget for community and technical
145 college education that reflects recommended appropriations for community and technical colleges
146 and that meets the following conditions:

147 (A) Incorporates the provisions of the financing rule mandated by this section to measure
148 and provide performance funding to institutions which achieve or make significant progress
149 toward achieving established state objectives and priorities;

150 (B) Considers the progress of each institution toward meeting the essential conditions set
151 forth in §18B-3C-3 of this code, including independent accreditation; and

152 (C) Considers the progress of each institution toward meeting the goals, objectives, and
153 priorities established in §18B-1D-1 *et seq.* of this code and its approved institutional compact.

154 (25) Administer and distribute the independently accredited community and technical
155 college development account;

156 (26) Establish a plan of strategic funding to strengthen capacity for support and assure
157 delivery of high-quality community and technical college education in all regions of the state;

158 (27) Foster coordination among all state-level, regional, and local entities providing post-
159 secondary vocational education or workforce development and coordinate all public institutions
160 and entities that have a community and technical college mission;

161 (28) Assume the principal responsibility for oversight of those community and technical
162 colleges seeking independent accreditation and for holding governing boards accountable for
163 meeting the essential conditions pursuant to §18B-3C-1 *et seq.* of this code;

164 (29) Advise and consent in the appointment of the presidents of the community and

165 technical colleges pursuant to §18B-1B-6 of this code. The role of the council in approving a
166 president is to assure through personal interview that the person selected understands and is
167 committed to achieving the goals and objectives established in the institutional compact and in
168 §18B-1-1 *et seq.*, §18B-1-1 *et seq.*, and §18B-3C-1 *et seq.* of this code;

169 (30) Provide a single, statewide link for current and prospective employers whose needs
170 extend beyond one locality;

171 (31) Provide a mechanism capable of serving two or more institutions to facilitate joint
172 problem-solving in areas including, but not limited to, the following:

173 (A) Defining faculty roles and personnel policies;

174 (B) Delivering high-cost technical education programs across the state;

175 (C) Providing one-stop service for workforce training to be delivered by multiple
176 institutions; and

177 (D) Providing opportunities for resource-sharing and collaborative ventures;

178 (32) Provide support and technical assistance to develop, coordinate, and deliver effective
179 and efficient community and technical college education programs and services in all regions of
180 the state;

181 (33) Assist the community and technical colleges in establishing and promoting links with
182 business, industry and labor in the geographic areas for which each community and technical
183 college is responsible;

184 (34) Develop alliances among the community and technical colleges for resource sharing,
185 joint development of courses and courseware, and sharing of expertise and staff development;

186 (35) Serve aggressively as an advocate for development of a seamless curriculum;

187 (36) Cooperate with all providers of education services in the state to remove barriers
188 relating to a seamless system of public and higher education and to transfer and articulate
189 between and among community and technical colleges, state colleges and universities, and public
190 education, preschool through grade 12;

191 (37) Encourage the most efficient use of available resources;

192 (38) Coordinate with the commission in informing public school students, their parents and
193 teachers of the academic preparation that students need in order to be prepared adequately to
194 succeed in their selected fields of study and career plans, including presentation of academic
195 career fairs;

196 (39) Jointly with the commission, approve, and implement a uniform standard, as
197 developed by the chancellors, to determine which students shall be placed in remedial or
198 developmental courses. The standard shall be aligned with college admission tests and
199 assessment tools used in West Virginia and shall be applied uniformly by the governing boards
200 throughout the public higher education system. The chancellors shall develop a clear, concise
201 explanation of the standard which the governing boards shall communicate to the State Board of
202 Education and the State Superintendent of Schools;

203 (40) Develop and implement strategies and curriculum for providing developmental
204 education which shall be applied by any state institution of higher education providing
205 developmental education;

206 (41) Develop a statewide system of community and technical college programs and
207 services in every region of West Virginia for competency-based certification of knowledge and
208 skills, including a statewide competency-based associate degree program;

209 (42) Review and approve all institutional master plans for the community and technical
210 colleges pursuant to §18B-2A-4 of this code;

211 (43) Propose rules for promulgation pursuant to subsection (b) of this section and §29A-
212 3A-1 *et seq.* of this code that are necessary or expedient for the effective and efficient
213 performance of community and technical colleges in the state;

214 (44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative
215 rule, to the jurisdiction of the governing boards who may rescind, revise, alter, or amend any rule
216 transferred pursuant to rules adopted by the council and provide technical assistance to the

217 institutions under its jurisdiction to aid them in promulgating rules;

218 (45) Develop for inclusion in the higher education report card, as defined in §18B-1D-8 of
219 this code, a separate section on community and technical colleges. This section shall include, but
220 is not limited to, evaluation of the institutions based upon the benchmarks and indicators
221 developed in subdivision (9) of this subsection;

222 (46) Facilitate continuation of the Advantage Valley Community College Network under
223 the leadership and direction of Marshall Community and Technical College;

224 (47) Initiate and facilitate creation of other regional networks of affiliated community and
225 technical colleges that the council finds to be appropriate and in the best interests of the citizens
226 to be served;

227 (48) Develop with the State Board of Education plans for secondary and post-secondary
228 vocational-technical-occupational and adult basic education, including, but not limited to the
229 following:

230 (A) Policies to strengthen vocational-technical-occupational and adult basic education;
231 and

232 (B) Programs and methods to assist in the improvement, modernization, and expanded
233 delivery of vocational-technical-occupational and adult basic education programs;

234 (49) Distribute federal vocational education funding provided under the Carl D. Perkins
235 Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing
236 financial assistance among secondary and post-secondary vocational-technical-occupational and
237 adult basic education programs to help meet the public policy agenda.

238 In distributing funds the council shall use the following guidelines:

239 (A) The State Board of Education shall continue to be the fiscal agent for federal vocational
240 education funding;

241 (B) The percentage split between the State Board of Education and the council shall be
242 determined by rule promulgated by the council under the provisions of §29A-3A-1 *et seq.* of this

243 code. The council shall first obtain the approval of the State Board of Education before proposing
244 a rule;

245 (50) Collaborate, cooperate, and interact with all secondary and post-secondary
246 vocational-technical-occupational and adult basic education programs in the state, including the
247 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of
248 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of
249 seamless curriculum and the elimination of duplicative programs;

250 (51) Coordinate the delivery of vocational-technical-occupational and adult basic
251 education in a manner designed to make the most effective use of available public funds to
252 increase accessibility for students;

253 (52) Analyze and report to the State Board of Education on the distribution of spending for
254 vocational-technical-occupational and adult basic education in the state and on the availability of
255 vocational-technical-occupational and adult basic education activities and services within the
256 state;

257 (53) Promote the delivery of vocational-technical-occupational education, adult basic
258 education and community and technical college education programs in the state which emphasize
259 the involvement of business, industry and labor organizations;

260 (54) Promote public participation in the provision of vocational-technical-occupational
261 education, adult basic education and community and technical education at the local level,
262 emphasizing programs which involve the participation of local employers and labor organizations;

263 (55) Promote equal access to quality vocational-technical-occupational education, adult
264 basic education and community and technical college education programs to handicapped and
265 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,
266 participants in programs designed to eliminate sexual bias and stereotyping and criminal
267 offenders serving in correctional institutions;

268 (56) Meet annually between the months of October and December with the Advisory

269 Committee of Community and Technical College Presidents created pursuant to §18B-2B-8 of
270 this code to discuss those matters relating to community and technical college education in which
271 advisory committee members or the council may have an interest;

272 (57) Accept and expend any gift, grant, contribution, bequest, endowment, or other money
273 for the purposes of this article;

274 (58) Assume the powers set out in §18B-2B-9 of this code. The rules previously
275 promulgated by the state College System Board of Directors pursuant to that section and
276 transferred to the commission are hereby transferred to the council and shall continue in effect
277 until rescinded, revised, altered, or amended by the council;

278 (59) Pursuant to the provisions of subsection (b) of this section and §29A-3A-1 et seq. of
279 this code, promulgate a uniform joint legislative rule with the commission for the purpose of
280 standardizing, as much as possible, the administration of personnel matters among the
281 institutions of higher education;

282 (60) Determine when a joint rule among the governing boards of the community and
283 technical colleges is necessary or required by law and, in those instances and in consultation with
284 the governing boards, promulgate the joint rule;

285 (61) Promulgate a joint rule with the commission establishing tuition and fee policy for all
286 institutions of higher education. The rule shall include, but is not limited to, the following:

287 (A) Comparisons with peer institutions;

288 (B) Differences among institutional missions;

289 (C) Strategies for promoting student access;

290 (D) Consideration of charges to out-of-state students; and

291 (E) Any other policies the commission and council consider appropriate;

292 (62) In cooperation with the West Virginia Division of Highways, study a method for
293 increasing the signage signifying community and technical college locations along the state
294 interstate highways, and report to the Legislative Oversight Commission on Education

295 Accountability regarding any recommendations and required costs; and

296 (63) Implement a policy jointly with the commission whereby any course credit earned at
297 a community and technical college transfers for program credit at any other state institution of
298 higher education and is not limited to fulfilling a general education requirement.

299 (d) In addition to the powers and duties listed in subsections (a), (b), and (c) of this section,
300 the council has the following general powers and duties related to its role in developing,
301 articulating and overseeing the implementation of the public policy agenda for community and
302 technical colleges:

303 (1) Planning and policy leadership including a distinct and visible role in setting the state's
304 policy agenda for the delivery of community and technical college education and in serving as an
305 agent of change;

306 (2) Policy analysis and research focused on issues affecting the community and technical
307 college network as a whole or a geographical region thereof;

308 (3) Development and implementation of each community and technical college mission
309 definition including use of incentive and performance funds to influence institutional behavior in
310 ways that are consistent with achieving established state goals, objectives, and priorities;

311 (4) Academic program review and approval for the institutions under its jurisdiction,
312 including the use of institutional missions as a template to judge the appropriateness of both new
313 and existing programs and the authority to implement needed changes;

314 (5) Development of budget and allocation of resources for institutions delivering
315 community and technical college education, including reviewing and approving institutional
316 operating and capital budgets and distributing incentive and performance-based funding;

317 (6) Acting as the agent to receive and disburse public funds related to community and
318 technical college education when a governmental entity requires designation of a statewide higher
319 education agency for this purpose;

320 (7) Development, establishment, and implementation of information, assessment, and

321 internal accountability systems, including maintenance of statewide data systems that facilitate
322 long-term planning and accurate measurement of strategic outcomes and performance indicators
323 for community and technical colleges;

324 (8) Jointly with the commission, development, establishment, and implementation of
325 policies for licensing and oversight of both public and private degree-granting and nondegree-
326 granting institutions that provide post-secondary education courses or programs;

327 (9) Development, implementation, and oversight of statewide and regionwide projects and
328 initiatives related specifically to providing community and technical college education such as
329 those using funds from federal categorical programs or those using incentive and performance-
330 based funding from any source; and

331 (10) Quality assurance that intersects with all other duties of the council particularly in the
332 areas of planning, policy analysis, program review and approval, budgeting and information, and
333 accountability systems.

334 (e) The council may withdraw specific powers of a governing board under its jurisdiction
335 for a period not to exceed two years if the council makes a determination that any of the following
336 conditions exist:

337 (1) The governing board has failed for two consecutive years to develop an institutional
338 compact as required in §18B-1D-7 of this code;

339 (2) The council has received information, substantiated by independent audit, of significant
340 mismanagement or failure to carry out the powers and duties of the Board of Governors according
341 to state law; or

342 (3) Other circumstances which, in the view of the council, severely limit the capacity of the
343 Board of Governors to carry out its duties and responsibilities.

344 The period of withdrawal of specific powers may not exceed two years during which time
345 the council is authorized to take steps necessary to reestablish the conditions for restoration of
346 sound, stable, and responsible institutional governance.

347 (f) In addition to the powers and duties provided for in subsections (a), (b), (c), and (d) of
348 this section and any others assigned to it by law, the council has those powers and duties
349 necessary or expedient to accomplish the purposes of this article; and

350 (g) When the council and commission, each, is required to consent, cooperate,
351 collaborate, or provide input into the actions of the other the following conditions apply:

352 (1) The body acting first shall convey its decision in the matter to the other body with a
353 request for concurrence in the action;

354 (2) The commission or the council, as the receiving body, shall place the proposal on its
355 agenda and shall take final action within 60 days of the date when the request for concurrence is
356 received; and

357 (3) If the receiving body fails to take final action within 60 days, the original proposal stands
358 and is binding on both the commission and the council.

359 (h) Nothing in this section provides the authority to restrict or regulate the carrying of a
360 concealed deadly weapon by a person who holds a current license to carry a concealed deadly
361 weapon except as expressly authorized in §18B-4-5b(b) of this code.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5b. Concealed carry on higher education campuses; exceptions.

1 (a) A person who holds a current and valid license to carry a concealed deadly weapon
2 shall be permitted to carry a concealed deadly weapon on the campus and in the buildings of a
3 state institution of higher education.

4 (b) Subsection (a) of this section may not limit the authority of a state institution of higher
5 education to regulate possession of firearms in the following locations consistent with §61-7-14
6 of this code:

7 (1) A stadium or arena with a capacity of more than 5,000 spectators;

8 (2) A daycare facility located on the property of the state institution of higher education; or

9 (3) In the secure area of any building used by a law-enforcement agency on the property

10 of the state institution for higher education.

11 (c) For the purposes of this section, a “license to carry a concealed deadly weapon” refers
12 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or
13 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this
14 code.

15 (d) This bill may be cited as “The Campus Self Defense Act”.

NOTE: The purpose of this bill is to create “The Campus Self Defense Act” which denies institutions of higher education the authority to restrict or regulate the carrying of a concealed deadly weapon by a person who holds a current license to carry a concealed deadly weapon. It also provides exceptions as to when regulation may occur.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.